



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: SEPTEMBER 07, 2022

IN THE MATTER OF:

Appeal Board No. 623052

PRESENT: MICHAEL T. GREASON, RANDALL T. DOUGLAS, MEMBERS

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective September 27, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant and on behalf of the employer. By decision filed April 13, 2022 (), the Administrative Law Judge overruled the initial determination.

The employer appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a hearing. Further testimony and evidence should be taken in regard to the circumstances under which the claimant separated from employment. The parties are hereby placed on notice that at the remand hearing, the Administrative Law Judge will also consider whether the claimant took reasonable steps to preserve her employment prior to resigning.

The employer is directed to produce the claimant's former supervisor, Maria Alexanian, at the remand hearing. Ms. Alexanian shall be questioned about what health concerns the claimant brought to her attention, when she did so, and whether any accommodations were available so that the claimant could continue in her employment.

At the proceedings held on April 6, 2020, the claimant stated that she could produce additional medical documentation regarding her condition(s). The claimant is directed to provide that information to the Hearing Section and to the employer prior to the remand hearing so that it may be considered by the Administrative Law Judge and entered into evidence after the appropriate confrontation.

The parties may produce any other relevant witnesses or documents. The Administrative Law Judge shall take any further testimony or evidence necessary to decide the case.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge is rescinded; and it is further

ORDERED, that the case shall be remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER

RANDALL T. DOUGLAS, MEMBER